

## SENATE BILL No. 202

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### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 5-2; IC 34-26-2.5.

**Synopsis:** Interstate enforcement of domestic violence orders.  
Establishes interstate enforcement of domestic violence orders.

**Effective:** July 1, 2001.

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**Simpson, Kenley**

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January 9, 2001, read first time and referred to Committee on Judiciary.

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First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

## SENATE BILL No. 202

A BILL FOR AN ACT to amend the Indiana Code concerning civil law and procedure.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 5-2-5-12 IS AMENDED TO READ AS FOLLOWS
- 2 [EFFECTIVE JULY 1, 2001]: Sec. 12. (a) On a daily basis, all law
- 3 enforcement agencies shall enter into the Indiana data and
- 4 communication system (IDACS) computer the following:
- 5 (1) All information concerning stolen or recovered property,
- 6 including:
- 7 (A) motor vehicles;
- 8 (B) firearms;
- 9 (C) securities;
- 10 (D) boats;
- 11 (E) license plates; and
- 12 (F) other stolen or recovered property.
- 13 (2) All information concerning fugitives charged with a crime,
- 14 including information concerning extradition.
- 15 (3) All information concerning runaways, missing and
- 16 unidentified persons, and missing children (as defined in
- 17 IC 10-1-7-2), including information concerning the release of



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such persons to the custody of a parent or guardian.

(4) Information contained in a protective order, including any modifications or extensions issued by a court and filed with a law enforcement agency as required in IC 5-2-9-6(f).

**(5) Information contained in a foreign protection order registered under IC 34-26-2.5.**

(b) On a daily basis, all law enforcement agencies shall:

(1) enter all information concerning missing children (as defined in IC 10-1-7-2) into the National Crime Information Center's Missing Person File;

(2) enter into the National Crime Information Center's Wanted Person File all information concerning warrants issued for a person who allegedly abducted or unlawfully retained a missing child; and

(3) enter all information concerning unidentified persons into the National Crime Information Center's Unidentified Person File.

(c) If a protective order is removed from a depository established under IC 5-2-9, the law enforcement agency responsible for the depository shall delete the information entered under subsection (a)(4) from the Indiana data and communication system (IDACS) computer.

SECTION 2. IC 5-2-9-2.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2.1. (a) As used in this chapter, "order" means:

(1) a protective order issued under:

(A) IC 34-26-2-12(1)(A) (or IC 34-4-5.1-5(a)(1)(A) before its repeal);

(B) IC 34-26-2-12(1)(B) (or IC 34-4-5.1-5(a)(1)(B) before its repeal); or

(C) IC 34-26-2-12(1)(C) (or IC 34-4-5.1-5(a)(1)(C) before its repeal);

that orders the respondent to refrain from abusing, harassing, or disturbing the peace of the petitioner;

(2) an emergency protective order issued under IC 34-26-2-6(1), IC 34-26-2-6(2), or IC 34-26-2-6(3) (or IC 34-4-5.1-2.3(a)(1)(A), IC 34-4-5.1-2.3(a)(1)(B), or IC 34-4-5.1-2.3(a)(1)(C) before their repeal) that orders the respondent to refrain from abusing, harassing, or disturbing the peace of the petitioner;

(3) a temporary restraining order issued under IC 31-15-4-3(2), IC 31-15-4-3(3), IC 31-16-4-2(a)(2), or IC 31-16-4-2(a)(3) (or IC 31-1-11.5-7(b)(2) or IC 31-1-11.5-7(b)(3) before their repeal) that orders the respondent to refrain from abusing, harassing, or disturbing the peace of the petitioner;

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(4) a dispositional decree issued under IC 31-34-20-1, IC 31-37-19-1, or IC 31-37-19-5 (or IC 31-6-4-15.4 or IC 31-6-4-15.9 before their repeal) or an order issued under IC 31-32-13 (or IC 31-6-7-14 before its repeal) that orders a person to refrain from direct or indirect contact with a child in need of services or a delinquent child;

(5) an order issued as a condition of pretrial release or pretrial diversion that orders a person to refrain from any direct or indirect contact with another person;

(6) an order issued as a condition of probation that orders a person to refrain from any direct or indirect contact with another person;

(7) a protective order issued under IC 31-15-5 or IC 31-16-5 (or IC 31-1-11.5-8.2 before its repeal) that orders the respondent to refrain from abusing, harassing, or disturbing the peace of the petitioner;

(8) a protective order issued under IC 31-14-16 in a paternity action that orders the respondent to refrain from having direct or indirect contact with another person; ~~or~~

(9) a protective order issued under IC 31-34-17 in a child in need of services proceeding or under IC 31-37-16 in a juvenile delinquency proceeding that orders the respondent to refrain from having direct or indirect contact with a child; ~~or~~

**(10) a foreign protection order registered under IC 34-26-2.5.**

(b) Whenever an order is issued, the order must be captioned in a manner that indicates the type of order issued and the section of the Indiana Code that authorizes the protective order.

SECTION 3. IC 5-2-9-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 5. A depository is established in the office of each sheriff and law enforcement agency in Indiana for the purpose of collecting, maintaining, and retaining the following:

(1) Protective orders issued under IC 34-26-2 (or IC 34-4-5.1 before its repeal) to prevent abuse of a person.

(2) A dispositional decree issued under IC 31-34-20-1, IC 31-37-19-1, or IC 31-37-19-5 (or IC 31-6-4-15.4 or IC 31-6-4-15.9 before their repeal) or an injunction issued under IC 31-32-13 (or IC 31-6-7-14 before its repeal) that requires a person to refrain from direct or indirect contact with a child in need of services or a delinquent child.

(3) Temporary restraining orders issued under IC 31-15-4-3(2) ~~or IC 31-15-4-3(3)~~ ~~IC 31-16-4-2(a)(2)~~, ~~or IC 31-16-4-2(a)(3)~~ (or IC 31-1-11.5-7(b)(2), ~~or IC 31-1-11.5-7(b)(3)~~, **IC 31-16-4-2(a)(2), or IC 31-16-4-2(a)(3)** before their repeal)

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that orders the respondent to refrain from abusing, harassing, or disturbing the peace of the petitioner.

(4) Orders issued as a condition of pretrial release or pretrial diversion that require a person to refrain from any direct or indirect contact with another person.

(5) Orders issued as a condition of probation that require a person to refrain from any direct or indirect contact with another person.

(6) Permanent protective orders issued under IC 31-15-5 or IC 31-16-5 (or IC 31-1-11.5-8.2 before its repeal) that order the respondent to refrain from abusing, harassing, or disturbing the peace of the petitioner.

**(7) Foreign protection orders registered under IC 34-26-2.5.**

SECTION 4. IC 5-2-9-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 6. (a) The clerk of a court that issues an order shall provide a copy of the order to the following:

(1) Each party.

(2) A law enforcement agency of the municipality in which the person protected by the order resides.

(3) If the person protected by the order does not reside in a municipality, the sheriff of the county in which the protected person resides.

(b) The clerk of a court that issues an order or the clerk of a court in which a petition is filed shall:

(1) maintain a confidential file to secure any confidential information about a protected person designated on any form prescribed or approved by the division of state court administration; and

(2) provide a copy of the confidential form that accompanies the order to the following:

(A) The sheriff of the county in which the order was issued.

(B) The law enforcement agency of the municipality, if any, in which the protected person resides.

(C) Any other sheriff or law enforcement agency designated in the order that has jurisdiction over the area in which a protected person may be located or protected.

(c) A sheriff or law enforcement agency that receives an order under subsection (a) and a confidential form under subsection (b) shall:

(1) maintain a copy of the order in the depository established under this chapter;

(2) enter:

(A) the date and time the sheriff or law enforcement agency receives the order;

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- 1 (B) the location of the person who is subject to the order;  
 2 (C) the name and identification number of the officer who  
 3 serves the order; and  
 4 (D) the manner in which the order is served;  
 5 on the copy of the order or the confidential form; and  
 6 (3) establish a confidential file in which a confidential form that  
 7 contains information concerning a protected person is kept.  
 8 (d) An order may be removed from the depository established under  
 9 this chapter only if the sheriff or law enforcement agency that  
 10 administers the depository receives:  
 11 (1) a notice of termination on a form prescribed or approved by  
 12 the division of state court administration;  
 13 (2) an order of the court; or  
 14 (3) a notice of termination and an order of the court.  
 15 (e) If an order in a depository established under this chapter is  
 16 terminated or expires, the person who obtained the protective order  
 17 must file a notice of termination on a form prescribed or approved by  
 18 the division of state court administration with the clerk of the court.  
 19 The clerk of the court shall provide a copy of the notice of termination  
 20 or order to each of the depositories to which the order and a  
 21 confidential form were sent. The clerk of the court shall maintain the  
 22 notice of termination in the court's file.  
 23 (f) If an order or form in a depository established under this chapter  
 24 is extended or modified, the person who obtained the extension or  
 25 modification must file a notice of extension or modification on a form  
 26 prescribed or approved by the division of state court administration  
 27 with the clerk of the court. The clerk of the court shall provide a copy  
 28 of the notice of extension or modification or order to each of the  
 29 depositories to which the order and a confidential form were sent. The  
 30 clerk of the court shall maintain the notice of extension or modification  
 31 in the court's file.  
 32 (g) The clerk of a court that issued an order terminating an  
 33 emergency protective order shall provide a copy of the order to the  
 34 following:  
 35 (1) Each party.  
 36 (2) The law enforcement agency provided with a copy of the  
 37 emergency protective order under subsection (a).  
 38 **(h) A sheriff or law enforcement agency that receives a foreign**  
 39 **protection order or a certified copy of a foreign protection order**  
 40 **under IC 34-26-2.5 shall:**  
 41 **(1) maintain a copy of the order in the depository established**  
 42 **under this chapter;**

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- (2) record the date and the time the sheriff or law enforcement agency receives the order; and
- (3) establish a confidential file in which a confidential form that contains information concerning a protected person is kept.

SECTION 5. IC 34-26-2.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]:

**Chapter 2.5. Interstate Enforcement of Domestic Violence Protection Orders**

**Sec. 1.** This chapter may be cited as the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act.

**Sec. 2.** The following definitions apply throughout this chapter:

- (1) "Foreign protection order" means a protection order issued by a tribunal of another state.
- (2) "Issuing state" means the state whose tribunal issues a protection order.
- (3) "Law enforcement agency" has the meaning set forth in IC 5-2-9-1.
- (4) "Mutual foreign protection order" means a foreign protection order that includes provisions in favor of both the protected individual seeking enforcement of the order and the respondent.
- (5) "Protected individual" means an individual protected by a protection order.
- (6) "Protection order" means an injunction or other order, issued by a tribunal under the domestic violence or family violence laws of the issuing state, to prevent an individual from engaging in violent or threatening acts against, harassment of, contact or communication with, or physical proximity to, another individual.
- (7) "Respondent" means the individual against whom the enforcement of a protection order is sought.
- (8) "Sheriff" has the meaning set forth in IC 5-2-9-3.
- (9) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes an Indian tribe or band that has jurisdiction to issue protection orders.
- (10) "Tribunal" means a court, an agency, or other entity authorized by law to issue or modify a protection order.

**Sec. 3. (a)** A person authorized by the law of this state to seek

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enforcement of a protection order may seek enforcement of a valid foreign protection order in a tribunal of this state. The tribunal shall enforce the terms of the order, including terms that provide relief that a tribunal of this state would lack power to provide but for this section. The tribunal shall enforce the order, whether the order was obtained by independent action or in another proceeding, if it is an order issued in response to a complaint, petition, or motion filed by or on behalf of an individual seeking protection. In a proceeding to enforce a foreign protection order, the tribunal shall follow the procedures of this state for the enforcement of protection orders.

(b) A tribunal of this state may not enforce a foreign protection order issued by a tribunal of a state that does not recognize the standing of a protected individual to seek enforcement of the order.

(c) A tribunal of this state shall enforce the provisions of a valid foreign custody order that govern custody and visitation, if the order was issued in accordance with the jurisdictional requirements governing the issuance of custody and visitation orders in the issuing state.

(d) A tribunal of this state may not enforce under this chapter a provision of a foreign protection order with respect to support.

(e) A foreign protection order is valid if it:

- (1) identifies the protected individual and the respondent;
- (2) is currently in effect;
- (3) was issued by a tribunal that had jurisdiction over the parties and subject matter under the law of the issuing state; and
- (4) was issued after the respondent was given reasonable notice and had an opportunity to be heard before the tribunal issued the order or, in the case of an order ex parte, the respondent was given notice and had an opportunity to be heard within a reasonable time after the order was issued, consistent with the rights of the respondent to due process.

(f) A foreign protection order valid on its face is prima facie evidence of its validity.

(g) Absence of any of the criteria for validity of a foreign protection order is an affirmative defense in an action seeking enforcement of the order.

(h) A tribunal of this state may enforce provisions of a mutual foreign protection order which favor a respondent only if:

- (1) the respondent files a written pleading seeking a protection order from the tribunal of the issuing state; and

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1 (2) the tribunal of the issuing state made specific findings in  
2 favor of the respondent.

3 Sec. 4. (a) A law enforcement officer, upon determining that  
4 there is probable cause to believe that a valid foreign protection  
5 order exists and that the order has been violated, shall enforce the  
6 order as if it were the order of an Indiana court. Presentation of a  
7 protection order that identifies both the protected individual and  
8 the respondent and, on its face, is currently in effect constitutes  
9 probable cause to believe that a valid foreign protection order  
10 exists. For the purpose of this section, the protection order may be  
11 inscribed on a tangible medium or may have been stored in an  
12 electronic or other medium if it is retrievable in perceivable form.  
13 Presentation of a certified copy of a protection order is not  
14 required for enforcement.

15 (b) If a foreign protection order is not presented, a law  
16 enforcement officer of this state may consider other information in  
17 determining whether there is probable cause to believe that a valid  
18 foreign protection order exists.

19 (c) If a law enforcement officer of this state determines that an  
20 otherwise valid foreign protection order cannot be enforced  
21 because the respondent has not been notified or served with the  
22 order, the officer shall inform the respondent of the order, make a  
23 reasonable effort to serve the order upon the respondent, and allow  
24 the respondent a reasonable opportunity to comply with the order  
25 before enforcing the order.

26 (d) Registration or filing of an order in Indiana is not required  
27 for the enforcement of a valid foreign protection order.

28 Sec. 5. (a) Any individual may register a foreign protection  
29 order in this state. To register a foreign protection order, an  
30 individual must present a certified copy of the order to a law  
31 enforcement agency or sheriff.

32 (b) Upon receipt of a foreign protection order, the law  
33 enforcement agency or sheriff shall place the order in a depository  
34 under IC 5-2-9-5 and enter the information contained in the order  
35 into the Indiana data and communication system (IDACS). After  
36 the order is registered, the law enforcement agency or sheriff shall  
37 furnish to the individual registering the order a certified copy of  
38 the registered order.

39 (c) The law enforcement agency or sheriff shall accept an order  
40 as described in subsection (b) upon presentation of a copy of a  
41 protection order which has been certified by the issuing state. A  
42 registered foreign protection order that is inaccurate or is not

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1 currently in effect must be corrected or removed from the registry.

2 (d) An individual registering a foreign protection order shall file  
3 an affidavit by the protected individual stating that, to the best of  
4 the protected individual's knowledge, the order is currently in  
5 effect.

6 (e) A foreign protection order registered under this chapter may  
7 be entered in any existing state or federal registry of protection  
8 orders, in accordance with applicable law.

9 (f) A fee may not be charged for the registration of a foreign  
10 protection order.

11 Sec. 6. The state, a local governmental agency, a law  
12 enforcement officer, a prosecuting attorney, a clerk of court, or  
13 any state or local governmental official acting in an official  
14 capacity is immune from civil and criminal liability for an act or  
15 omission arising out of the registration or enforcement of a foreign  
16 protection order or the detention or arrest of an alleged violator of  
17 a foreign protection order if the act or omission was done in good  
18 faith in an effort to comply with this chapter.

19 Sec. 7. A protected individual who pursues remedies under this  
20 chapter may pursue other legal or equitable remedies against the  
21 respondent.

22 Sec. 8. In applying and construing this chapter, consideration  
23 must be given to the need to promote uniformity of the law with  
24 respect to its subject matter among states that enact it.

25 Sec. 9. If any provision of this chapter or its application to any  
26 person or circumstance is held invalid, the invalidity does not affect  
27 the other provisions or application of this chapter that can be given  
28 effect without the invalid provision or application. To this end, the  
29 provisions of the chapter are severable.

30 SECTION 6. [EFFECTIVE JULY 1, 2001] IC 34-26-2.5, as added  
31 by this act, applies to protection orders issued before July 1, 2001,  
32 and to continuing actions for enforcement of foreign protection  
33 orders commenced before July 1, 2001. A request for enforcement  
34 of a foreign protection order made after June 30, 2001, for  
35 violations of a foreign protection order occurring before July 1,  
36 2001, is governed by IC 34-26-2.5, as added by this act.

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